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PO BOX 747 FALLS CHURCH, VA 22040-0747			HUYNH, SON P		
			ART UNIT	PAPER NUMBER	
		2623			
SHORTENED STATUTORY	PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE		
3 MON	NTHS	02/09/2007	ELECTRONIC		

# Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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		Application No. Applicant(s)						
		09/852,001		KAWAJIRI, MOMOE				
	Office Action Summary	Examiner		Art Unit				
		Son P. Huynh		2623				
Period fo	The MAILING DATE of this communication app or Reply	pears on the cove	er sheet with the co	orrespondence add	ress			
WHIC - Exte after - If NC - Failu Any	ORTENED STATUTORY PERIOD FOR REPLY CHEVER IS LONGER, FROM THE MAILING DAMAIS of time may be available under the provisions of 37 CFR 1.1: SIX (6) MONTHS from the mailing date of this communication. Operiod for reply is specified above, the maximum statutory period were to reply within the set or extended period for reply will, by statute reply received by the Office later than three months after the mailing ed patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS Co 36(a). In no event; how will apply and will expire , cause the application	OMMUNICATION vever, may a reply be time SIX (6) MONTHS from the to become ABANDONED	Bly filed the mailing date of this com (35 U.S.C. § 133).	· .			
Status								
1)[汉]	Responsive to communication(s) filed on 09 N	ovember 2006.						
'=	· · ·	action is non-fir	ıal.		·			
3)	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is							
,	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.							
Dispositi	ion of Claims							
4) 🛛	Claim(s) 1-31 is/are pending in the application.		٠					
	4a) Of the above claim(s) is/are withdraw		ration.					
	Claim(s) is/are allowed.							
-	⊠ Claim(s) <u>1-31</u> is/are rejected.							
7)	Claim(s) is/are objected to.							
8)□	Claim(s) are subject to restriction and/or	r election require	ement.					
Applicati	ion Papers				· · ·			
9)□	The specification is objected to by the Examine	r.						
10)⊠ The drawing(s) filed on <u>10 May 2001</u> is/are: a)⊠ accepted or b)□ objected to by the Examiner.								
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).								
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).								
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.								
Priority ι	ınder 35 U.S.C. § 119				•			
12)	Acknowledgment is made of a claim for foreign	priority under 35	5 U.S.C. § 119(a)-	(d) or (f).				
_	a) ☐ All b) ☐ Some * c) ☐ None of:							
	1. Certified copies of the priority documents	s have been rec	eived.					
	2. Certified copies of the priority documents have been received in Application No							
	3. Copies of the certified copies of the priority documents have been received in this National Stage							
	application from the International Bureau (PCT Rule 17.2(a)).							
* See the attached detailed Office action for a list of the certified copies not received.								
	•							
Attachmen	t(s)							
1) Notic	e of References Cited (PTO-892)	4) 🗌	Interview Summary (I					
	e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO/SB/08)	5) 🗌	Paper No(s)/Mail Date Notice of Informal Pa					
	r No(s)/Mail Date	6)	Other:					

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### **DETAILED ACTION**

### Response to Arguments

1. Applicant's arguments filed 11/9/2006 regarding claims 30 have been fully considered but they are not persuasive.

In response to Applicant's argument that the rejection incorporates U.S. Application Publication 2003/0149988 (Ellis 2). However, Ellis 1 incorporates U.S. Application No. 09/332,244. Ellis 2 is not the published application for 09/332,244, but a continuation of U.S. Application 09/332,244 (page 14, last paragraph), the Examiner agrees. However, Since 2003/04149988 is a continuation of U.S. Application 09/332,244, the disclosure of a continuation application (US 2003/0149988 – Ellis 2) must be the same as the disclosure of the prior-file application (U.S. application 09/322,244). Thus, Ellis 1 (US 2005/0028208 – hereinafter referred to as E208) incorporates U.S. Application No. 09/332,244 could be the same as E208 incorporates U.S 2003/0149988 (Ellis 2).

In response to Applicant's argument that Ellis 1 (E208) fails to teach or suggest the claimed "comparing means for making a comparison between a data identifier included in the data received by the receiving means and a data identifier inputted from the outside" because there is insufficient evidence of inherency that Ellis teaches the function of comparison between a data identifier included in the data received by the

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receiving means and a data identifier inputted from the outside, i.e., a comparison performed after the data has been received (page 16, last paragraph – page 19, paragraph 2, page 21, last paragraph), the Examiner respectfully disagrees.

1. Ellis discloses the user using remote access device 24 to select a program for recording, the information of the selected program (i.e. program identifier, title, program time, channel, etc.) is stored in a storage device (i.e. storage 56 – figure 5, or digital storage device – figure 4), at an appropriate time, the selected program is recorded in predetermined storage device such as digital storage device, secondary storage device, or storage 56 or program guide server (see including, but are not limited to, paragraphs 0127-0128, 0163-0164. Also see reference 2003/0149988 -hereinafter referred to as '988, paragraphs 0060, 0082, 0087, which is incorporated by reference in its entirely paragraph 0017). Thus, the data recording device inherently comprises a comparing means for making a comparison between a data identifier included in the data received by the receiving means (i.e. program identifier, program title, etc. received through the program source such as main facility with the program content when the program is aired) and a data identifier inputted from the outside (e.g. data inputted by the user using remote access device 24 so that the selected program is recorded at appropriate time. It is inherent that the comparison is performed after the data is received, if the data is not received, there is nothing to be used to compare with the identifier inputted from the outside.

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Furthermore, if a data identifier included in the data received by the receiving means (e.g. program information such as title, identifier, or time, etc. included in the data received by control circuit or receiving device at the video distribution facility) is not compared with a data identifier inputted from the outside (data identifier such as title, identifier, or time, etc. of the program selected to be recorded), how can the system recognize the selected program and stored it in a predetermined location at appropriate time?

Therefore, E208 inherently discloses the function of comparison between a data identifier included in the data received by the receiving means and a data identifier inputted from the outside.

In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references by arguing replacement of Ellis 1 's remote guide device 24 with Sehr's visitor card,... Ellis 1 would no longer be capable of carrying out its intended operation... (page 20, paragraph 2-page 21, paragraph 2), the Examiner respectfully disagrees.

The Office Action did not state replacement of Ellis 1 (E208)'s with Sehr's visitor card; but instead, the Examiner relies on the Sehr's reference for the teaching of card-type functions such as an entrance ticket. In addition, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge

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generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the suggestion, or motivation to combine the references is found in the references themselves. In particular, E208 discloses a portable device for storing user profile, and the portable device allow user to access to different services such as sports services, schedule recording, etc. (see include, but is not limited to, figure 8, paragraphs 0092, 0121, 0124-0125). E208 also discloses the portable device comprises communication device such as network interface card (paragraph 0093).

Sehr also discloses a portable device for storing user profile, and the portable device allow user to access to different services such as access to sporting events, and other services (see include, but is not limited to, the abstract). Sehr further discloses the portable device performs card-type function such as payment for the service, used as an entrance ticket, and other services (see include, but is not limited to, abstract, col. 2, line 46-col. 3, line 12, col. 3, lines 34-62). Since Ellis discloses various modifications can be made by those skilled in the art to the invention (paragraph 0229), it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ellis to use the teaching as taught by Sehr in order to reduce administration cost, improve productivity, better quality of service, and higher revenues associated with the issuance, usage, and processing of the computerized cards (col. 2, lines 2-40).

For the reasons given above, rejections on claims 1-31 are analyzed as discussed below.

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# Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
- 3. Claims 1-6, 15-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al. (US 2005/0028208).

Regarding claim 1, Ellis discloses a data recording device (program guide equipment 17 including program guide server, digital storage device, secondary storage device, storage 56, VCR – figures 1, 2b, 3-5), comprising:

receiving means for receiving data distributed through a distribution medium (e.g., control circuit 42 or receiving device at the video distribution facility for receiving program and program guide data distributed through a distribution medium 18 – see including, but are not limited to, figures 1, 4-5, paragraphs 0066-0067, 0080, 0083);

Ellis further discloses the user using remote access device 24 to select a program for recording, the information of the selected program (i.e. program identifier, title, etc.) is stored in storage device (i.e. storage 56 – figure 5, or digital storage device - figure 4), at an appropriate time, the selected program is recorded in determined storage device such as digital storage device, secondary storage device, or storage 56 or program guide server (see including, but are not limited to, paragraphs 0127-0128. 0163-0164. Also see reference 2003/0149988 –hereinafter referred to as '988. paragraphs 0060, 0082, 0087, which is incorporated by reference in its entirely paragraph 0017). Therefore, the recording device inherently comprises a comparing means for making a comparison between a data identifier included in the data received by the receiving means (i.e. program identifier, program title, etc. receiving through the program source such as main facility) and a data identifier inputted from the outside (e.g. data inputted by the user using remote access device 24); and storing means (i.e., digital storage device, secondary storage device, storage 56, or program guide server) for storing data having the data identifier (program with selected title, program identifier, etc.) when the two data identifiers coincide with each other so that the selected program is recorded in storage device when the selected program is aired.

Regarding claim 2, Ellis further discloses the data recording device further comprising:

accepting means (i.e. communications device 27 – figure 2d, or communications

device 37 – figure 3) for accepting from a portable device which stores a data identifier

and is set to be ready to communicate data with the data recording device, the data

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identifier as the data identifier inputted from the outside (communications device 27 or 37 accepts from the remote access device 24 which stores a data identifier in storage 56 and is set to be ready to communicate data with the program guide equipment 17, the data identifier as identifier (i.e. identifier of program to be recorded, to be watched, etc.) inputted from the outside (e.g. using user interface 52 –figure 5, paragraphs 0072, 0086, 0093, 0103, 0107, 0127-0129, 0134, 0163).

Regarding claim 3, Ellis further discloses the data recording device further comprising: data reproducing for reproducing data which are read out of the storage device (e.g. control circuit 42 or processing circuitry 54 for retrieving the stored data from the storage device for playback on the display device – see including, but is not limited to, figures 4-5);

wherein when referring to data stored in the storing means and detecting stored data corresponding to the data identifier from the accepting means, the comparing means reads the data out of the storing means to the data reproducing means, and when the data are not yet stored in the storing means (i.e. determining whether the portion of the program has already been cached – see "988, paragraph 0197), the comparing means compares a data identifier which is included in the data received by the receiving means with a data identifier from the portable device (remote access device 24), and the storing means stores data having the corresponding data identifier according to results of the comparison (see including, but are not limited to, figures 3-5,

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paragraphs 0082, 0103, 0107, 0115, 0127 and "988, paragraphs 0187, 0126, 0149, 0153, 0157, 0187, 0197).

Regarding claim 4, Ellis further discloses wherein a data identifier to be accepted by the accepting means includes a partial data identifier (i.e. identifier of an episode/segment of program series) for identifying partial data included in the data, and the storing means reads out the corresponding partial data to the data reproducing means when the partial data identifier is accepted (storing means reads out requested episode/segment for playback – see including, but are not limited to, paragraphs 0017, 0128-0129; "988, paragraphs 0177-0180).

Regarding claim 5, Ellis further discloses the data recording device further comprising:

data reproducing means for reproducing data read out of the storing means (control circuitry or processing circuitry for reproducing data read out of the storing device for playing back on the display device – figures 4-5; "988, paragraphs 0153, 0157);

displaying means for displaying an icon which corresponds to the data identifier accepted by the accepting means (i.e. displaying device for displaying icon corresponds to the program/recorded program that allow user to select the program to playback- see including, but are not limited to, figures 7-11, paragraphs 0110, 0170; '988, figures 18a-21);

input means for selectively inputting the icon displayed by the display means (e.g. remote control device or remote access device for selecting the icon on the display device – see including, but are not limited to, figures 4-10, "988, figures 18a-21);

wherein when referring to data stored in the storage means and detecting stored data having a data identifier corresponding to the icon inputted by the input means, the comparing means reads the data out of the storing means to the data reproducing means (e.g. retrieve program/segment having program/segment identifier associated with the selected icon, and the retrieved content is provided to the control circuitry or processing circuitry for reproducing and playing back on the display screen – see including, but are not limited to, figures 4-10, "988, figures 18a-21, paragraphs 0153-0157).

Regarding claim 6, Ellis further discloses wherein a data identifier to be accepted by the accepting means includes a partial data identifier for identifying partial data included in the data (i.e. program/segment title, program/segment identifier, etc. – see including, but are not limited to, paragraphs 0127, 0155, 0163), and when referring to the data stored in the storing means and detecting stored partial data having a partial data identifier corresponding to the icon inputted by the input means, the comparing means reads the partial data out of the storing means to the data reproducing means (e.g. storing means reads out requested episode/segment for playback – see including, but are not limited to, figures 4-10, paragraphs 0017, 0128-0129; "988, figures 18a-21, paragraphs 0153, 0157, 0177-0180).

Regarding claims 15-16, the claimed recording program for performing the process is broader in scope than the claimed recording devices in claims 1 and 3, and are analyzed as discussed in the rejections of claims 1 and 3.

Regarding claims 17-18, the limitations of the recording medium as claimed correspond to the limitations of the data recording program for performing the processes as claimed in claims 15-16, and are analyzed as discussed in the rejections of claims 15-16.

# Claim Rejections - 35 USC § 103

- 4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 5. Claims 7-13, 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (US 2005/0028208).

Regarding claim 7, the limitations of the performance recording system that correspond to the limitations of the data recording device in claim 1 are analyzed as discussed in the rejection of claim 1. For the additional limitation of portable device which is superior

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in carryability and capable of obtaining and storing a data identifier given to a performance is met by remote access device (24) which may be any device suitable personal computer, portable computer, palmtop computer, handheld personal computer, display remote, touch screen remote, automobile PC, PDA or any other suitable computer based device and capable of obtaining and storing data identifier given to a performance such as title of a program, program identifier, etc.— paragraph 0092, figures 1, 5);

for the additional limitation "a distribution medium for distributing record data of the performance as data together with the data identifier" is met by distribution medium (18) for distributing program and program guide data and other information to the interactive program guide television equipment 17 – figure 1, paragraphs 0066-0069);

for the additional limitation "a data recording device which stores record data based on the data identifier from the portable device and the data identifier from the distribution medium" is met by storage device at television equipment 17 which store program/program segment/program guide data based on data identifier (program title, program identifier, etc.) from the remote access device (24) and the data identifier from the distribution medium (18 – see including, but are not limited to, figures 1, 2b, 3-5, paragraphs 0017, 0110, 0127, 0163).

Ellis further discloses remote access device (24) which may be any device suitable personal computer, portable computer, palmtop computer, handheld personal computer, display remote, touch screen remote, automobile PC, PDA or any other suitable

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computer based device and capable of obtaining and storing data identifier given to a performance such as title of a program, program identifier, etc.— paragraph 0092, figures 1, 5) and the remote access device is capable of obtain and store a data identifier at any location (i.e. when a user is caught in traffic in an automobile — paragraph 0017). Since the remote access device is a portable unit as indicated above, it would have been obvious to one of ordinary skill in the art that the portable device (24) is capable of obtaining and storing a data identifier given to a performance at a performance site in order to at least improve accuracy of user desired data.

Regarding claims 8-12, the additional limitations as claimed correspond to the additional limitations as claimed in claims 2-6, and are analyzed as discussed with respect to the rejection of claims 2-6.

Regarding claim 13, Ellis further discloses the portable device is a mobile phone capable of receiving the data identifier which is transmitted by radio waves (paragraph 0092).

Regarding claim 31, Ellis discloses a data recording device as discussed in the rejection of claim 4. Ellis further disclose selecting images of scenes in the performance by user input (interpreted as user selection of title, video clip, detail description, graphic of particular program/episodes – see include, but is not limited to, figures 7-8, 42, paragraphs 0113-0115), wherein the portable device stores the images of scenes in the

performance (interpreted as the remote access device stores program guide information comprises video clips, detailed descriptive information of the program in storage 56 see include, but is not limited to, paragraph 0129), the images are for identifying the partial data included in the data (the images such as title, video clips, detailed descriptive information identifying partial of data included in the data of program/episode - see include, but is not limited to, paragraphs 0067, 0115, 0129), the storing means reads out the corresponding partial data to the data reproducing means when the respective image is selected (interpreted as storage device (e.g. digital storage device, secondary storage device, or program guide server, or storage 56 reads out video clips, program, or episode to the processing circuitry/control circuitry for display the corresponding selected video clip, program, or episode when the user select to playback the program/episode or additional information either on the television display at the user television equipment or on the display of the remote access device (see include, but is not limited to, figures 4-5, paragraphs 0113-0115, 0130-0131, 0133-0134). However, Ellis does not explicitly disclose the program guide information, or detailed descriptive information are still images. Official Notice is taken that using still images correspond to program, or scene or episode in program guide or in detailed description is well known in the art. For example, displaying still images of television program, in program guide screen or in the detailed description window. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ellis to use the well-known teaching of still mages in program guide or in detail description and allow user to select the still image for the corresponding

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program in order to enhance the convenience of using electronic program guides or detailed description.

6. Claims 14, 19-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (US 2005/0028208) in view of Sehr (US 6,999,936).

Regarding claim 14, Ellis discloses a recording system comprises a portable device as discussed in the rejection of claim 7. Ellis further discloses remote access device (24) which may be any device suitable personal computer, portable computer, palmtop computer, handheld personal computer, display remote, touch screen remote, automobile PC, PDA or any other suitable computer based device and capable of obtaining and storing data identifier given to a performance such as title of a program, program identifier, etc.— paragraph 0092, figures 1, 5). However, Ellis does not specifically disclose the portable device is a card-type device (device performs function of a card).

Sehr discloses the portable device is a card type device (e.g. portable visitor card device) to which an identifier is magnetically or electronically writable for perform function of the card such as payment, or admission, etc. (see including, but are not limited to, abstract, col. 2, line 46-col. 3, line 12; col. 3, lines 34-62). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ellis to use the teaching as taught by Sehr in order to reduced administrative

cost, improved productivity, better quality of service, and higher revenues associated with the issuance, usage, and processing of the computerized cards (col. 2, lines 2-40).

Regarding claim 19, the limitations as claimed that correspond to the limitations as claimed in claim 7 are analyzed as discussed with respect to the rejection of claim 7.

However, Ellis does not specifically disclose the additional limitation of portable device is used as an entrance ticket for a performance.

Sehr disclose a portable device used as an entrance ticket for a performance (portable ticketing card/ portable visitor card device used for the admission to events such as sporting activities or other entertainment programs- see including, but are not limited to, abstract, col. 3, lines 34-62). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ellis to use the teaching as taught by Sehr in order to reduced administrative cost, improved productivity, better quality of service, and higher revenues associated with the issuance, usage, and processing of the computerized cards (col. 2, lines 2-40).

Regarding claims 20-24, the additional limitations as claimed correspond to the additional limitations as claimed in claims 8-12, and are analyzed as discussed with respect to the rejections of claims 8-12.

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Regarding claim 25, Ellis in view of Sehr teaches a system as discussed in the rejection of claim 19. Ellis further discloses information storing means (i.e. storing device for previously storing program guide data in the television equipment 17) corresponding to partial data included in the data (see including, but are not limited to, paragraphs 0073, 0078,0083, 0089);

reproducing means (control circuitry, processing circuitry, or producing device in program server) for producing the information stored in the information storing means (retrieve program guide data from the storage device and generate the program guide display screen using retrieved from guide data – see including, but are not limited to, paragraphs 0073, paragraph 0078, 0102).

Regarding claims 26-30, the additional limitations as claimed correspond to the additional limitation as claimed in claims 8-12, and are analyzed as discussed with respect to the rejections of claims 8-12.

### Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Oosterhout et al. (US 6,405,371) discloses navigating through television programs.

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Croy et al. (US 6,476,825) discloses hand-held video viewer and remote control device.

Lawler et al. (US 5,699,107) discloses program reminder system.

Shafer (US 5,841,483) discloses use of an audio processing channel in a television receiver during a multipicture mode of operation.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Son P. Huynh

February 2, 2007

CHRIS KELLEY SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 2600